PATENT APPLICATION

THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of   Docket No: Q57599

Sang-seo LEE

Appln. No.: 09/503,506   Group Art Unit: 2142

Confirmation No.: 6707   Examiner: Douglas Blair

Filed: February 14, 2000

For: DATA TRANSMISSION PROTOCOL USING SHORT MESSAGE SERVICE

REPLY BRIEF PURSUANT TO 37 C.F.R. § 41.41

MAIL STOP APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 41.41, Appellant respectfully submits

this Reply Brief in response to the Examiner's Answer dated May 4, 2005. Entry of this Reply

Brief is respectfully requested.

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STATUS OF CLAIMS

Claims 1-29 are pending in the application.

Claims 9-15 and 24-29 have been withdrawn from consideration.

Claims 1-8 and 16-23 are finally rejected.

<u>GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL</u>

1. Whether claims 1-7 and 16-22 would have been obvious, within the meaning of 35 U.S.C. § 103(a), over Isomursu et al. (U.S. Patent No. 6,400,958) in view of Liao (U.S. Patent No. 6,185,208).

2. Whether claims 8 and 23 would have been obvious, within the meaning of 35 U.S.C. § 103(a), over Isomursu et al. and Liao in view of Ayabe et al. (U.S. Patent No. 6,141,550).

ARGUMENT

In the *Response to Argument* section (11) of the Examiner's Answer, the Examiner responds to Appellant's arguments set forth in the Appeal Brief dated February 7, 2005. In response, Appellants maintain that the present invention, as claimed, is patentable over the applied references, either alone or in combination, at least based on the previously submitted arguments and the arguments set forth below.

> *1. Neither Isomursu nor Liao, either alone or in combination, teaches or suggests each and every limitation of claims 1-7 and 16-22. Specifically, the applied references do not teach or suggest at least, "segmenting input message data into a plurality of short message data fields and inserting a segmented message data field, a field indicating the number of segmented short messages and a field indicating a current short message number, into the user data field," as recited in independent claim 1, and similarly recited in independent claim 16.*

In the Appeal Brief dated February 7, 2005, Appellant argued that neither Isomursu nor Liao, either alone or in combination, teaches or suggests at least the limitation quoted in the sub-heading. In response, in the *Response to Argument* section of the present Examiner's Answer, the Examiner alleges, in part:

> Liao teaches a system for segmenting a message that is too long to be transmitted whole using short messages (col. 6, lines 3-45). In Liao, the last segment of the message is indicated by turning on a flag (col. 57-61). Turning on a flag is considered inserting a field since the flag value is a field that is inserted into the last message and since the flag indicates the last message, it is thus indicating the total number of messages. Thus, the combination of Insomursu and Liao sufficiently teaches the idea of inserting a field indicating the number of segmented short messages into a user data field as claimed."

In response, Appellant submits that the Examiner's assertions above do not demonstrate that Liao satisfies the above-quoted features of claim 1. Specifically, Appellant submits that

"turning on" a flag does not correspond to inserting a segmented message data field. The Examiner's argument implies a manipulation of a <u>previously established</u> value (i.e., a flag) in Liao. Liao simply describes that a flag is turned on, however, the Examiner expands the definition of "turning on" a flag to mean also inserting a field. Appellant submits that this is clearly unsupportable. Further, a flag indicating a last message does not necessarily indicate a total number of messages. The Examiner's allegation assumes that the number of messages prior to receiving the last message have been tallied, and this tally along with the last message can be used to determine the total number of messages. Nowhere does Isomursu and Liao, either alone or in combination, support this particular assumption. Therefore, at least based on the foregoing, as well as the arguments set forth in the Appeal Brief, Appellant submits that independent claims 1 and 16 are patentably distinguishable over the applied references, either alone or in combination.

Appellant submits that dependent claims 2-7 and 17-22 are patentable at least by virtue of their respective dependencies from independent claims 1 and 16.

Dependent claims 8 and 23 are patentable at least by virtue of their respective dependencies. Ayabe does not make up for the deficiencies of Isomursu and Liao.

> *2. Neither Isomursu nor Liao, either alone or in combination, teaches or suggests each and every limitation of claim 5. Specifically, the applied references do not teach or suggest at least, "inserting a reference number field, which indicates a number for referring to the type of data connection service, into a position next to the data connection service identifier in the user data field," as recited in claim 5.*

With respect to dependent claim 5, the Examiner contends that the claimed reference number field is redundant to the data connection service identifier, and therefore, even though Isomursu only discloses a data connection service identifier, the Examiner believes that the

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features of claim 5 are satisfied because of the alleged redundancy between the reference number field and the data connection service identifier.

Even if, *arguendo*, the reference number field and data connection service identifier are similar, nowhere are the specific features set forth in claim 5 satisfied by the applied references, either alone or in combination. That is, nowhere do the applied references teach or suggest inserting a reference number field into a position next to the data connection service identifier in the user data field. Even though the Examiner believes that such features of claim 5 are redundant and, thus, believes the features of claim 5 are arbitrary, Appellant submits that the features of claim 5 merit patentable weight as the Examiner has NOT rejected this claim for lack of utility. Based on the specific rejection and the Examiner's acknowledgement that Isomursu only teaches a data connection service identifier, Appellant maintains that the applied references, either alone or in combination, do not teach or suggest at least the specific limitation , "inserting a reference number field, which indicates a number for referring to the type of data connection service, into a position next to the data connection service identifier in the user data field," as recited in claim 5. Therefore, at least based on the foregoing, Appellant submits that dependent claim 5 is patentably distinguishable over the applied references, either alone or in combination.

Claim 20 is allowable over the prior art for reasons analogous to those for claim 5.
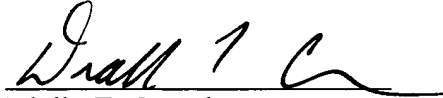
CONCLUSION

At least based on the foregoing as well as the arguments submitted in the Appeal Brief, Appellants submit that the present invention, as recited in each of claims 1-8 and 16-23, is patentably distinguishable over the applied references.

For the above reasons as well as the reasons set forth in Appeal Brief, Appellant

respectfully requests that the Board reverse the Examiner's rejections of all claims on Appeal.

An early and favorable decision on the merits of this Appeal is respectfully requested.

Respectfully submitted,

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